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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/849,907	05/04/2001	Van Nguyen	12929.0061	9112

7590 02/24/2005  
Stephen H. Cagle  
750 Bering Drive  
Houston, TX 77057-2198

EXAMINER

BAXTER, GWENDOLYN WRENN

ART UNIT PAPER NUMBER

3632

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/849,907

Applicant(s)

NGUYEN, VAN

Examiner

Gwendolyn Baxter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2, 3, 5-12 and 14-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2, 3, 5-12, 14-22, 24, and 26-28 is/are rejected.
- 7) ☒ Claim(s) 23 and 25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

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This is the fifth Office action of serial number 09/849,907, Apparatus for Supporting Medical Fluids, filed May 4, 2001.

### *Drawings*

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 43. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3, 5-12, 14-22, 24 and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,875,651 to Wergin in view of U.S. Patent No. 837,642 to Powell. Wergin teaches an apparatus comprising an apparatus (10) having a clamp (52, 53, 55), and an arm (16). The clamp (52, 53, 55) removably secures the apparatus to an object or surgical table frame (26) to allow the object to support the apparatus, wherein the object is movable relative to the patient to whom the fluids are to be delivered (col. 3, line 68 - col. 4, line 3). The first end of the clamp is near 55, 56 and the second end is near 54. The arm has a first longitudinal axis extending from a first end of the clamp. A support (12, 18) is connected to the arm and is adapted to retain a receptacle containing medical fluids. The arm is rotatably movable within a plane about the clamp (via the serrations 54, 56). The arm is movable long the first longitudinal axis (col. 3, line 39+- the axis is along element 16) and rotatably moveable about the first longitudinal axis such that the arm may be oriented to extend from a second end of the clamp, directly opposed to the first end of the clamp while still supporting medical fluids. The arm is radially rotatable in a plane of motion about the first longitudinal axis with respect to the clamp (once the set screw (72) is released element 16 can rotate within the sleeve 70). The arm is radially rotatable about the clamp in a plane containing the first longitudinal axis (via the serrations 54, 56).

Regarding claim 6-12, the arm comprises a first portion (12, 14, 16) extending from the clamp and a second portion (18) extending from the first portion. The first portion of the arm has a first longitudinal axis (along member 16) and the second portion of the arm has a second longitudinal axis (along member 18). The first longitudinal axis is substantially perpendicular to the second longitudinal axis. The first portion of the arm is rotatable about the clamp within

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a plane containing the first longitudinal axis of the first portion (via the serrations 54, 56). The second portion of the arm is rotatable about the first portion of the arm (once the set screw (72) is released element 16 can rotate within the sleeve 70). The first portion of the arm is rotatable about the first longitudinal axis with respect to the clamp (once the set screw (72) is released element 16 can rotate within the sleeve 70). The object is an item of surgical furniture selected from a surgical table and surgical bed upon which a patient lies (col. 2, lines 18+). The object is a surgical table. The clamp is adapted to be releasably secured to a rail (26). The support is adapted to retain the receptacle containing medical fluids for delivery to the patient intravenously. However, Wergin fails to teach the support mounted on a rod, wherein the rod is mounted to an end of the arm remote from the clamp and the rod extends telescopically within arm.

Powell teaches a (receptacle) support device (16, 17) found attached to hospital beds. The support device has a support or hook assembly (17) attached to an end of a support rod (16) that extends telescopically within the arm (9) secured to a clamp (3, 2) for attached to a frame. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Wergin, which is a support device found attached to hospital beds, to have incorporated the vertical hollow arm portion 18 and to provide a rod and support a shown by Powell which is also a support device found attached to hospital beds. One would have been motivated to do this in that during hospital stays fluids are often needed as clearly stipulated by Powell. By having the hollow arm and additional support at the end of an adjustable rod, the device of Wergin can function either alone or in combination with the

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transducer support supporting fluid bags at various heights relative to the surgical table as taught by Powell.

### ***Response to Arguments***

Applicant's arguments with respect to claims 2, 3, 5-12, and 14-21 have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the allowance for a 180-degree rotation) are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Next, applicant argues the references fail to teach, "...the first arm portion is movable along the first longitudinal axis, the movement along the first longitudinal axis being limited by an end of the first arm portion having an increased diameter."

Applicant's attention is directed to figure 2. The first portion includes 16, which is movable along the first longitudinal axis. The movement along the first longitudinal axis is limited by an end of the first arm portion (which is the connecting end portion of 16 and including 14). The end of the first arm portion has an increased diameter. See figure 2.

***Allowable Subject Matter***

Claims 23 and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

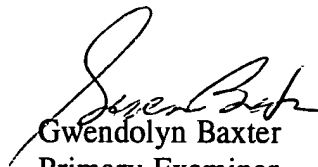
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gwendolyn Baxter whose telephone number is 703-308-0702. The examiner can normally be reached on Monday-Wednesday, 8:00am -5:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A Braun can be reached on 703-308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Gwendolyn Baxter  
Primary Examiner  
Art Unit 3632

February 20, 2005